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8 UNION BANK OF CALIFORNIA LONG TERM
DISABILITY BENEFIT PLAN

9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12

13 JOHN NOBLE

14 Plaintiff,

15 v.

16 UNION BANK OF CALIFORNIA LONG
17 TERM DISABILITY BENEFIT PLAN
Defendant.

Case No: 3:08-cv-00115-SI

Date: July 11, 2008
Time: 9:00 A.M.
Dept: Courtroom 10

Before the Honorable Susan Illston

18 **DECLARATION OF J. ELAINE MACEY IN SUPPORT OF DEFENDANT'S**
19 **MOTION TO DISMISS (OFFERED ONLY TO THE EXTENT THE COURT CONVERTS**
20 **THE MOTION TO A FRCP 56 MOTION)**
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1 I, J. Elaine Macey, hereby declare as follows:

2 1. I am a Senior Vice President and Manager of Corporate Benefits at Union Bank of
3 California. As a Senior Vice President and Manager of Corporate Benefits I am responsible for
4 management of Union Bank of California's benefit plans. I submit this declaration in support of
5 Defendant's Motion to Dismiss in the event that the Court believes it is necessary to convert the
6 motion to one for summary judgment. Unless expressly stated herein, I have personal knowledge
7 of the matters stated in this declaration and would testify competently to them, if required.

8 2. The Union Bank of California Long Term Disability Benefit Plan ("UBOC Plan")
9 document that was in effect in 2004, at the time Plaintiff allegedly became disabled, was the 1997
10 Union Bank of California Long Term Disability Benefit Plan Document, as amended (the "1997
11 Plan Document"). Attached as Exhibit C to the Motion to Dismiss is a true and correct copy of
12 the 1997 Plan Document.

13 3. The UBOC Plan is a self-funded ERISA plan that provides long-term disability
14 benefits to certain Union Bank of California employees.

15 4. Plaintiff was employed by Union Bank of California on April 16, 2001. He ceased
16 work on May 25, 2001, and his employment was terminated on March 13, 2002 after he did not
17 locate a position with Union Bank of California through the Posting Process.

18 5. Attached as Exhibit A to the Motion to Dismiss is a true and correct copy of the July
19 31, 2007 letter from VPA, Inc. (claim administrator for the UBOC Plan) to Mr. Noble's attorney,
20 which document is maintained by the UBOC Plan in the ordinary course of business.

21 6. On September 25, 2006, Plaintiff sent Union Bank of California a letter requesting
22 benefits from the UBOC Plan, which document is maintained by the UBOC Plan in the ordinary
23 course of business. Attached as Exhibit B to the Motion to Dismiss is a true and correct copy of
24 Plaintiff's September 25, 2006 letter.

25 7. Since he ceased work on May 25, 2001, Plaintiff has not worked 17 ½ hours a week
26 for Union Bank of California.

1 8. Plaintiff was last paid by Union Bank of California on May 29, 2001 and at no point
2 since his termination on March 13, 2002 has Plaintiff been on the U.S. Payroll of Union Bank of
3 California.

4 9. Plaintiff did not provide a written claim to the UBOC Plan regarding his 2004
5 disability until he submitted his letter to Union Bank of California dated September 25, 2006.

6 I declare under penalty of perjury under the laws of the United States of America
7 and California that the foregoing is true and correct. Executed this 22th day of April, 2008.

8
9 DATED: April 22, 2008

By:


J. ELAINE MACEY